Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

WATSON ET AL. *v.* PHILIP MORRIS COS., INC., ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

No. 05–1284. Argued April 25, 2007—Decided June 11, 2007

Petitioners filed a state-court suit claiming that respondents (Philip Morris) violated Arkansas unfair business practice laws by advertising certain cigarette brands as "light" when, in fact, Philip Morris had manipulated testing results to register lower levels of tar and nicotine in the advertised cigarettes than would be delivered to consumers. Philip Morris removed the case to Federal District Court under the federal officer removal statute, which permits removal of an action against "any officer (*or any person acting under that officer*) of the United States or of any agency thereof," 28 U. S. C. §1442(a)(1) (emphasis added). The federal court upheld the removal, ruling that the complaint attacked Philip Morris' use of the *Government's* method of testing cigarettes and thus that petitioners had sued Philip Morris for "acting under" the Federal Trade Commission. The Eighth Circuit affirmed, emphasizing the FTC's detailed supervision of the cigarette testing process and likening the case to others in which lower courts permitted removal by heavily supervised Government contractors.

Held: The fact that a federal agency directs, supervises, and monitors a company's activities in considerable detail does not bring that company within §1442(a)(1)'s scope and thereby permit removal. Pp. 3–14.

(a) Section 1442(a)(1)'s words "acting under" are broad, and the statute must be "liberally construed." *Colorado* v. *Symes*, 286 U. S. 510, 517. But broad language is not limitless. And a liberal construction nonetheless can find limits in a text's language, context, history, and purposes. The statute's history and this Court's cases demonstrate that its basic purpose is to protect the Federal Government from the interference with its "operations" that would ensue

were a State able, for example, to "arres[t]" and bring "to trial in a State cour[t] for an alleged offense against the law of the State," "officers and agents" of the Government "acting . . . within the scope of their authority." *Willingham* v. *Morgan*, 395 U. S. 402, 406 (internal quotation marks omitted). State-court proceedings may reflect "local prejudice" against unpopular federal laws or officials, *e.g., Maryland* v. *Soper*, 270 U. S. 9, 32, and States hostile to the Government may impede enforcement of federal law, see, *e.g., Tennessee* v. *Davis*, 100 U. S. 257, 263, or deprive federal officials of a federal forum in which to assert federal immunity defenses, see, *e.g., Willingham, supra*, at 407. The removal statute applies to private persons "who lawfully assist" a federal officer "in the performance of his official duty," *Davis* v. *South Carolina*, 107 U. S. 597, 600, but "only" if the private parties were "authorized to act with or for [federal officers or agents] in affirmatively executing duties under . . . federal law," *City of Greenwood* v. *Peacock*, 384 U. S. 808, 824. Pp. 3–7.

(b) The relevant relationship here is that of a private person "*acting under*" a federal "officer" or "agency." §1442(a)(1) (emphasis added). In this context, "under" must refer to what the dictionaries describe as a relationship involving acting in a certain capacity, considered in relation to one holding a superior position or office, and typically includes subjection, guidance, or control. Precedent and statutory purpose also make clear that the private person's "acting under" must involve an effort to *assist*, or to help *carry out,* the federal superior's duties or tasks. See, *e.g.*, *Davis* v. *South Carolina, supra*, at 600. Such aid does *not* include simply *complying* with the law. When a company complies with a regulatory order, it does not ordinarily create a significant risk of state-court "prejudice." Cf. *Soper, supra*, at 32. A state-court suit brought against such a company is not likely to disable federal officials from taking necessary action designed to enforce federal law, cf. *Tennessee* v. *Davis, supra*, at 262–263, nor to deny a federal forum to an individual entitled to assert a federal immunity claim, see, *e.g.*, *Willingham, supra*, at 407. Thus, a private firm's compliance (or noncompliance) with federal laws, rules, and regulations does not by itself fall within the scope of the statutory phrase "acting under" a federal "official," even if the regulation is highly detailed and even if the private firm's activities are highly supervised and monitored. A contrary determination would expand the statute's scope considerably, potentially bringing within it state-court actions filed against private firms in many highly regulated industries. Nothing in the statute's language, history, or purpose indicates a congressional intent to do so. Pp. 7–9.

(c) Philip Morris' two arguments to the contrary are rejected. First, it contends that if close supervision is sufficient to turn a Gov-

ernment contractor into a private firm "acting under" a Government "agency" or "officer," as lower courts have held, it is sufficient to transform a company subjected to intense regulation. The answer to this argument is that the assistance that private contractors provide federal officers goes beyond simple compliance with the law and helps the officers fulfill other basic governmental tasks. Second, Philip Morris argues that it is "acting under" FTC officers when it conducts cigarette testing because, after initially testing cigarettes for tar and nicotine, the FTC *delegated authority* for that task to the tobacco industry in 1987 and has thereafter extensively supervised and closely monitored testing. This argument contains a fatal flaw of omission. Although it uses the word "delegation," there is no evidence of any delegation of legal authority from the FTC to the tobacco industry to undertake testing on the Government agency's behalf, or evidence of any contract, payment, employer/employee relationship, or principal/agent arrangement. The existence of detailed FTC rules indicates regulation, not delegation. The usual regulator/regulated relationship cannot be construed as bringing Philip Morris within the statute's terms. Pp. 9–14.

420 F. 3d 852, reversed and remanded.

BREYER, J., delivered the opinion for a unanimous Court.